



State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Changed Place of Use

PRIORITY DATE
January 27, 1993

WATER RIGHT NUMBER
G3-29381(B)

MAILING ADDRESS
COLUMBIA RIVER RESERVE
342 SILICA ROAD NW
QUINCY WA 98848

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE
500

UNITS
GPM

ANNUAL QUANTITY (AF/YR)
177

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
500 gallons per minute, 177 acre-feet per year: 175 acre-feet per year for agricultural irrigation of 50 acres and 2 acre-feet for continuous domestic supply and recreational use	500		GPM	177		04/01 - 10/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
GRANT	GROUNDWATER		41-LOWER CRAB

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
A WELL	050068203	ACK546	19N	23E	31	SWNW	47.096437	119.996978

Datum: NAD83/WGS84

REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

50 acres of vineyards, house and recreational use as follows:

23.4 acres within a portion of the NW $\frac{1}{4}$ of Section 31 lying westerly of the following described line: Beginning at the NW corner of said Sec. 31; thence along the N. line of the NW $\frac{1}{4}$ of said Sec. 31, S. 89°58'37" E., 2072.29 ft., to the NW corner of a parcel of land as shown on the Record of Survey dated June 27, 1994, and recorded as Grant County Auditor's File No. 940627030 in Book 30, Pgs. 63 and 64 (hereinafter referred to as the "940627030 Parcel"); thence, along the Westerly and Southerly boundary of said "940627030 Parcel" as follows: S. 46°37'42" W. 447.72 ft.; S. 19°32'15" W., 74.71 ft.; S. 72°00'38" E., 174.37 ft.; S. 01°39'16" E., 125.94 ft.; S. 62°57'44" E., 741.18 ft.; S. 35°31'27" E., 437.79 ft.; S. 00°12'11" W., 1570.74 ft. being the terminus of the line;

Together with the E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Together with 5.1 acres within a portion of land located in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 31, T. 19 N., R. 23 E.W.M., Grant County Washington, and being more particularly described as follows: Commencing at the NE corner of said Sec. 31; thence N. 89°58'55" W. along the N. line of said NE $\frac{1}{4}$, a distance of 1319.30 ft. to the NE corner of the NW $\frac{1}{4}$ of said NE $\frac{1}{4}$ said point also being the **POINT OF BEGINNING**; thence S. 00°12'25" W. along the east line of the NW $\frac{1}{4}$ of said NE $\frac{1}{4}$, a distance of 424.33 ft. to the Southerly line as described in Parcel No. 5 in a Statutory Warranty Deed, dated April 3, 1995 recorded under Auditor's File No. 950404037;

Thence along the Southerly and Westerly line of said Deed the following twelve (12) courses:

1. N. 44°10'20" W., a distance of 2.14 ft.;
2. S. 85°08'14" W., a distance of 63.19 ft.;
3. S. 75°42'54" W., a distance of 100.92 ft.;
4. S. 56°56'36" W., a distance of 76.04 ft.;
5. S. 51°15'44" W., a distance of 72.14 ft.;
6. S. 47°18'02" W., a distance of 89.37 ft.;
7. S. 71°25'19" W., a distance of 63.77 ft.;
8. S. 52°09'24" W., a distance of 63.99 ft. to the North line of Farm Unit 17 Irrigation Block 77 Columbia Basin Project;
9. N. 89°58'55" W. along said North line, a distance of 439.20 ft.;
10. N. 01°32'23" W., a distance of 282.21 ft.;
11. N. 17°43'03" W., a distance of 308.35 ft.;
12. N. 39°12'24" W., a distance of 108.69 ft. to the North line of the NE $\frac{1}{4}$ of said Sec. 31;

Thence S. 89°58'55" E. along said N. line, a distance of 1069.79 ft. to the **POINT OF BEGINNING**;

Together with 21.5 acres within the E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 31, T. 19 N., R. 23 E.W.M.

Proposed Works

A well, distribution for agricultural irrigation of 50 acres of vineyards, home and recreational use

Development Schedule		
BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Complete	April 1, 2015

Measurement of Water Use	
How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm)

Provisions

Wells, Well Logs and Well Construction Standards

All wells constructed in the state must meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard must be decommissioned.

All wells must be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag must remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

It should be noted that the authorized well may not be able to physically produce sufficient water. Many of the projects within the "gray area" of the Quincy Basin do not physically have sufficient water for larger scale projects such as irrigation or large community water systems.

The well, is identified as 12" x 905 feet deep. The well was constructed in 1995. The well static water level was described as 512 feet below land surface and the land surface elevation is 1250 feet above mean sea level. The well is cased to a depth of 542 feet with a 20 foot surface seal.

Any reconstruction, replacement or installation of additional wells shall be conducted in compliance with Chapter 18.104 RCW and Chapter 173-160 WAC. Any cascading water encountered shall be precluded by casing and sealing, and no interaquifer transfer of water shall be allowed. When the well is reconstructed or replaced, the reconstructed or replacement well shall be cased and sealed a minimum of 200 feet into competent basalt. If this well is reconstructed the casing shall be sized so that it is a minimum of four-inches in diameter smaller than the borehole section in which it is installed. If it is possible the borehole

diameter may be reamed to accommodate a larger diameter casing. The casing diameter shall still be limited to four-inches in diameter less than the borehole in which it is installed. If this well is replaced the replacement well shall have a borehole constructed that is a minimum of four-inches greater in diameter than the permanent casing string, to be contained within that section of borehole. The permanent casing is then to be placed or set into the borehole. Sealing shall be accomplished by pressure grouting with neat cement from the bottom to the top until undiluted sealing material returns to the surface.

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded weekly. The data will be maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request.

The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

Family Farm Permit

That portion of this authorization relating to irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

If water from facilities of any legally formed irrigation district is used on any or all of the irrigated lands described herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available.

RCW 90.44.510 confirms that should water be supplied to these lands and replaced with Columbia Basin Project Water, the permit or certificate shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the number of acres under the permit.

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for Change No. G3-29381(B) subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 24th day of July, 2013.



Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

BACKGROUND

An application for change was submitted by Columbia River Reserve, (Vince Bryan) to the Department of Ecology on March 9, 2009. The applicant proposes to change a portion of the place of use of the underlying permit.

A notice of application was published on June 11 and 18, 2009 in the Quincy Valley Post Register in accordance with RCW 90.03.280 and no protests or objections were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute;

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

INVESTIGATION

In considering the proposed application for change/transfer, the investigation included, but was not limited to, research and review of (1) appropriate rules and statutes; (2) Ground Water Permit No. G3-29381(B) and other water rights/claims/applications in the vicinity; (3) water well reports and other wells in the vicinity; (4) USGS topographic maps; (5) discussions with Department of Ecology regional program staff; including review by Ecology hydrogeologists.

Ground Water Permit No. G3-29381(B) authorizes the withdrawal of 500 gallons per minute, 177 acre-feet per year: 175 acre-feet for agricultural irrigation of 50 acres and 2 acre-feet per year for continuous domestic supply and recreational use. The authorized place of use included portions of the SE¼ of Section 36, T. 19 N., R. 22 E.W.M. (DNR), portions of the W½ and SE¼ of Section 31 and a portion of the SW¼ of Section 32 T. 19 N., R. 23 E.W.M. A detailed description is available in the permit.

A field examination was conducted on March 13, 2013, with the applicant. The applicant has developed 50 acres of vineyards, some recreational use, and one single domestic residence under this permit. The residence is currently using an exempt well along with the recreational use. The majority of the agricultural irrigation is served from the permitted well and applied to 23.4 acres in the NW¼, and the E½NE¼SW¼ and 21.5 acres in the E½E½SE¼ of Section 31. A 5.1 acre portion of the developed vineyard is located in the N½NW¼NE¼ of Section 31 for a total of 50 acres. The small portion of the irrigated land in the N½NW¼NE¼ of Section 31 was previously removed from the place of use under a 2004 change application. This application requests to correct the legal description to include the developed property and include lands within the west half of Section 32. The place of use will be limited to the lands currently developed in agricultural uses. No other changes are requested under this permit. At the time of the examination, construction was complete and the permittee has developed 50 acres of

agricultural vineyard within the large legal description. This authorization will allow additional time to determine the amount of water applied to these lands in order to file the Proof of Appropriation. Final proof examination review may reduce the legal description to accurately reflect the developed agricultural lands and other uses.

The agricultural land is primarily developed in small scattered vineyard tracts in between the domestic development of the Project. The domestic development of the Project includes Ground Water Permit G3-28882(B) which authorizes 1100 gallons per minute, 1759 acre-feet per year for community domestic supply for 382 homes and non-agricultural irrigation of 560 acres. Portions of this authorization have been developed in and around the vineyard development. Permit G3-28882(B) is also authorized from the same source well. An application for change was also submitted on this permit, and it will have its own decision issued based on the requested change. These two permits overlap in their place of use.

Wells serving the project include the permitted well and multiple wells constructed under the domestic exemption. The exempt wells do not meet the requirements of the permit(s) and are not authorized for the permitted use. The permittee has agreed to decommission these exempt wells and tie the existing system into the authorized well. The systems are currently intertied according to the water system plan. The schedule for compliance and decommissioning of the exempt wells is addressed in their water system plan approved August 28, 2008.

Evaluation of the Permit and Beneficial Use Analysis:

The Washington State Supreme Court, in Okanogan Wilderness v. Town of Twisp and Department of Ecology, 133 Wn.2d 769, 947 P.2d 732 (1997), held that Ecology must determine the extent and validity of a water right that is eligible for change before the Department can approve a change or transfer of the water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right. In R.D. Merrill Co. v. Pollution Control Hearings Board, 137 Wn.2d 118, 969 P.2d 458 (1999), the Supreme Court held that the place of use and point of withdrawal of an inchoate ground water permit may be changed pursuant to RCW 90.44.100.

Maps provided by the permittee and aerial photographs were used to help verify the extent of historical development and beneficial use of the permit. This water right has been put to use for single domestic supply, some recreational use and agricultural irrigation of 50 acres of vineyards with micro emitters and a cover crop. The permit is in good standing and is available for change/transfer.

As with any water right in the permit/construction phase it is required that “due diligence (RCW 90.03)” must be shown in proceeding with development of the project. It is also required that any requests for extensions to the development schedule of a permit, must be evaluated based on the “good faith” of the applicant under RCW 90.03.320. The filing of a change application is not considered to demonstrate due diligence to complete the project that was originally authorized under the permit. This permit will be reevaluated as it pertains to any development extensions that may be requested to determine if the project is being developed with due diligence and that the permit holder is acting in good faith.

Hydrogeologic Analysis:

Applications for change of water right permits and certificates are governed by RCW 90.44.100, which states in part: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued by the Department only on the conditions that; (1) the additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) other existing rights shall not be impaired. The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The proposed project lies within the boundaries of the Quincy Ground Water Management Subarea as defined in Chapter 173-124 WAC. This Subarea covers the northern portion of the Columbia Basin project (developed by the US Department of Interior, Bureau of Reclamation), and lies mostly within Grant County.

The shallow water management unit is defined as the ground water hydraulically continuous between land surface and a depth of 200 feet into the Quincy basalt zone and includes all of the Quincy unconsolidated zone (WAC 173-134A-040(9)). This area is subject to artificial recharge of ground water. This recharge results from leakage associated with the Bureau of Reclamation’s Columbia Basin Irrigation Project which is comprised of a series of canals used for irrigation. Most of the canal system is unlined and significant leakage from this canal system recharges the shallow groundwater table. Deep percolation of applied irrigation water also contributes to groundwater recharge in the Subarea. Therefore, much of the water in the shallow management unit is artificially stored and is under the jurisdiction of the Bureau of Reclamation.

The deep water management unit is defined as all ground waters underlying the shallow management unit (WAC 173-134A-040(4)). The basalt aquifers of the Quincy Ground Water Management Subarea are part of a large ground water reservoir occurring in a thick series of

basalt flows known as the Columbia River Basalt Group. The thickness of these basalts varies from a few hundred feet at the Spokane River to over 10,000 feet in the Pasco Basin. These flows include several identified formations, or groups of basalt flows, known as the Saddle Mountains Basalt Formation; Wanapum Basalt Formation; and Grande Ronde Basalt Formation.

Since the application does not request a change in source, a determination of the same body of ground water is not required. However, provisions from previous permits have been carried forward that address potential future well construction.

Impairment Analysis

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200); and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

This proposed change in the place of use shall not increase the amount of water withdrawn from the aquifer nor will it increase the land proposed for irrigation or expand the right. The change in place of use to correct the legal description to include existing vineyard development and include lands in Section 32 will not impair existing water rights.

No other changes are requested of the permit.

Existing Water Rights

Ground Water Permit G3-28882(B) authorized the withdrawal of 1100 gallons per minute, 1759 acre-feet per year: 344 acre-feet for community domestic supply of 382 homes and 1415 acre-feet for non-agricultural irrigation of 560 acres. The permit has requested a change in place of use to represent the overall Master Planned resort development of the project. The two permits authorize different purposes of use and the beneficial uses will need to be separately identified upon filing of a Proof of Appropriation.

Some of the property within the proposed place of use of these permits lies within the boundary of the Columbia Basin Project and within delivery of the irrigation district. The applicant may pursue additional water service contracts with the irrigation district to expand the agricultural development within the place of use of this permit.

The district contracts should not identify the same lands as identified and perfected under the agricultural permit to avoid overlap. Should additional contracts be issued by the district that include lands developed under this permit, these lands will be subject to RCW 90.44.510.

If water from facilities of any legally formed irrigation district is used on any or all of the lands described and developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available.

RCW 90.44.510 confirms that should water be supplied to these lands (agricultural or non-agricultural) and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit.

FINDINGS

There is a water right permit available for change/transfer under Ground Water Permit No. G3-29381(B).

When considering an application for change to a water right, Ecology must determine that the proposed change can be made without detriment or injury to existing water rights. Factors considered when determining potential impact include the following:

No Impairment to Existing Rights:

There has been no documented history of pumping interference between existing wells in this area, and it is not anticipated that the proposed change/transfer would cause impairment to existing water rights.

No Detriment to the Public Welfare:

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed change/transfer.

No Enhancement of the Original Right:

No withdrawal of water over and above what has been authorized for beneficial use would be authorized through approval of this change.

Same Source of Water:

As there is no request to change the point of withdrawal, the ground water to be withdrawn is supplied by the same body of public water.

CONCLUSION

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44, this application for change changing a portion of the place of use as granted under Ground Water

Permit No. G3-29381(B) will not enlarge the quantity of water historically authorized, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to change the place of use be approved in the amounts and within the limitations listed below and subject to the provisions.

Purpose of Use and Authorized Quantities

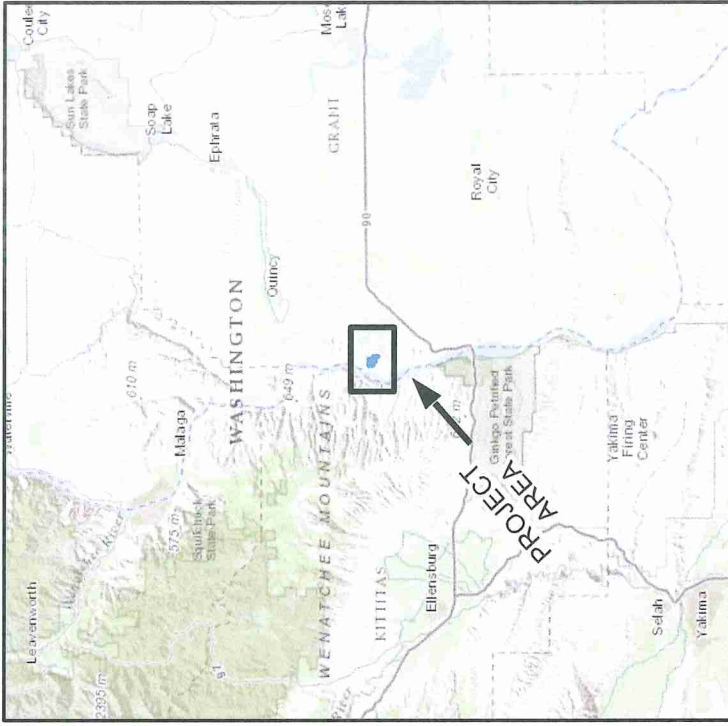
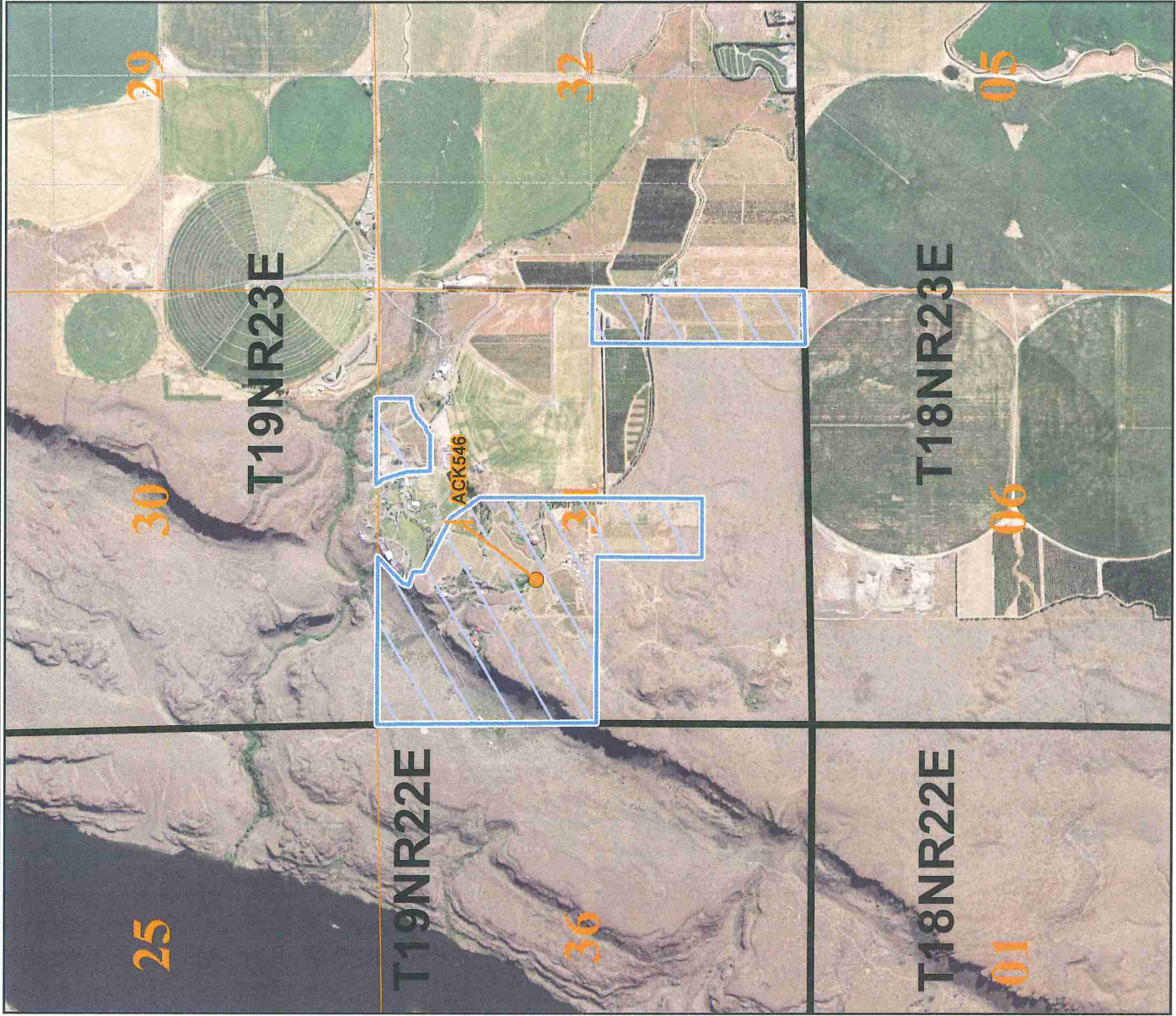
The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

500 gpm, 177 acre-feet per year: 175 acre-feet per year for agricultural irrigation of 50 acres and 2 acre-feet for continuous domestic supply and recreational use.

Victoria Luba *7/24/13*
Kevin Brown, Report Writer Date

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Columbia River Reserve
G3-29381(B)
T19N/R25E



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use



Authorized Point of Withdrawal



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.



Map Date: 4/8/2013